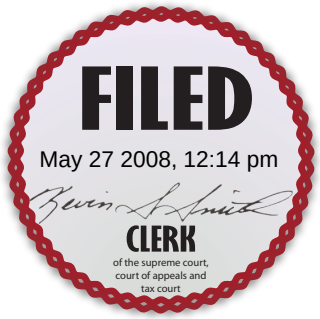

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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF A.R.C., a Minor Child,	)	
MARCUS C., Father,	)	
Appellant-Respondent,	)	
vs.	)	No. 71A05-0802-JV-51
ST. JOSEPH COUNTY DEPARTMENT OF CHILD SERVICES,	)	
Appellee-Petitioner.	)	

APPEAL FROM THE ST. JOSEPH PROBATE COURT
The Honorable Peter J. Nemeth, Judge
The Honorable Barbara J. Johnston, Magistrate
Cause No. 71J01-0705-JT-63

May 27, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Marcus C. ("Father") appeals the termination of his parental rights. Because the evidence supports the court's decision, we affirm.

FACTS AND PROCEDURAL HISTORY

A.R.C. was born September 3, 2004, to a 16-year-old mother who was a ward of the Department of Child Services ("DCS"). Because Mother was unable to support herself or the child and because the identity of the father was undetermined, a CHINS petition was filed on September 20, 2004. The court found A.R.C. to be a CHINS on December 8, 2004, but she remained in Mother's care.

Father was seventeen years old when A.R.C. was born. He established paternity on February 8, 2005, and the court ordered him to pay support. Pursuant to the CHINS dispositional order, he was to complete a parenting assessment and follow any recommendations, maintain a stable source of income, maintain stable housing, and maintain contact with DCS.

On July 6, 2005, A.R.C. was removed from Mother's care and placed in foster care. On May 21, 2007, the State filed a petition to terminate parental rights. Trial was scheduled for January 11, 2008. On the morning of trial, Mother voluntarily terminated her parental rights. After hearing evidence as to Father, the court terminated his parental rights.

DISCUSSION AND DECISION

We have long had a highly deferential standard when reviewing termination of parental rights. *In re K.S.*, 750 N.E.2d 832, 836 (Ind. Ct. App. 2001). We do not reweigh the evidence or judge the credibility of the witnesses. *In re D.D.*, 804 N.E.2d 258, 264

(Ind. Ct. App. 2004), *trans. denied*. Instead, we consider only the evidence and reasonable inferences therefrom that are most favorable to the judgment. *Id.* In deference to the juvenile court's unique position to assess the evidence, we will set aside the court's judgment terminating a parent-child relationship only if it is clearly erroneous. *In re L.S.*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied*. A judgment is clearly erroneous only if the findings do not support the trial court's conclusions or the conclusions do not support the judgment thereon. *Quillen v. Quillen*, 671 N.E.2d 98, 102 (Ind. 1996).

"The traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution." *In re M.B.*, 666 N.E.2d 73, 76 (Ind. Ct. App. 1996), *trans. denied*. However, the juvenile court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding the termination. *K.S.*, 750 N.E.2d at 837. Parental rights may be terminated when the parents are unable or unwilling to meet their parental responsibilities. *Id.* at 836.

To terminate a parent-child relationship, the State is required to allege and prove:

> (A) [o]ne (1) of the following exists:
>
> (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
>
> * * * * *
>
> (B) there is a reasonable probability that:
>
> (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
>
> (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;
>
> (C) termination is in the best interests of the child; and,

(D) there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b)(2). The State must establish each of these allegations by clear and convincing evidence. *Egly v. Blackford County Dep't of Pub. Welfare*, 592 N.E.2d 1232, 1234 (Ind. 1992).

When determining whether there is a reasonable probability the conditions justifying a child's removal and continued placement outside the home will not be remedied, the juvenile court must judge a parent's fitness to care for his or her children at the time of the termination hearing, taking into consideration evidence of changed conditions. *In re J.T.*, 742 N.E.2d 509, 512 (Ind. Ct. App. 2001), *trans. denied*. However, the court must also "evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child." *Id.* Pursuant to this rule, courts have properly considered evidence of a parent's prior criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment. *A.F. v. Marion County Office of Family & Children*, 762 N.E.2d 1244, 1251 (Ind. Ct. App. 2002), *trans. denied*. The juvenile court may also properly consider the services offered to a parent, and the parent's response to those services, as evidence of whether conditions will be remedied. *Id.* DCS is not obliged to rule out all possibilities of change; it need establish only a reasonable probability a parent's behavior will not change. *See In re Kay L.*, 867 N.E.2d 236, 242 (Ind. Ct. App. 2007).

On June 6, 2005, Father was found in contempt for failing to pay child support. His arrearage as of that date was $1,312.00. (State's ex. 4-A.) On August 29, 2005,

another contempt hearing was held and the court determined Father was $1,585.00 in arrears as of July 31, 2005. The court imposed a sentence, but suspended it on the condition that Father pay $50 in child support per week. (State's ex 4-B.) On March 21, 2006, the court found Father had failed to pay child support and entered a new order requiring Father to spend ten weekends in jail. As of the final hearing, Father was not caught up on support and admitted he had not paid any support for nine months.

On January 4, 2008, another court in St. Joseph County found in favor of the landlord of the apartment where Father and Mother lived and ordered them to vacate the premises by January 20, 2008. (State's Ex. 6.) The eviction was ordered in part because they were three months behind in rent. Father was unable to pay the rent because he was unemployed and his parents refused to continue paying his rent.

Although required by the dispositional order, Father did not maintain contact with DCS. Father admitted he batters Mother, was expelled from high school for violence, and failed to complete a treatment for batterers. He completed a parenting assessment, but did not complete the recommended parenting class.

"[A] pattern of unwillingness to deal with parenting problems and to cooperate with those providing social services, in conjunction with unchanged conditions, support a finding that there exists no reasonable probability that the conditions will change." *Lang v. Starke County Office of Family & Children*, 861 N.E.2d 366, 372 (Ind. Ct. App. 2007). Based on the evidence cited above, we cannot find the court erred in determining there was a reasonable probability that Father would not remedy the problems that led to

A.R.C.'s removal.[1]

Father asserts the trial court should have given him "more time to become a good parent" because "he loved his daughter and did not want this petition granted." (Appellant's Br. at 7.) In nearly three years between the determination of Father's paternity and the termination hearing, Father had not found stable employment. He was evicted from his apartment in the month of the termination hearing. He had not completed treatment for drug use, battering Mother, or parenting insufficiencies. While we appreciate that Father loves his daughter, we cannot find the court erred in failing to give Father additional time. *See In re Campbell*, 534 N.E.2d 273, 275 (Ind. Ct. App. 1989) (court will not put the children "on a shelf" until their parent is capable of caring for them). The judgment is therefore affirmed.

Affirmed.

VAIDIK, J., and MATHIAS, J., concur.

[1] The family case manager also testified that it would not be in A.R.C.'s best interests to be returned to Father because he had no stable housing, had no stable income, and had not received treatment for battering Mother. Further, she believed termination was in A.R.C.'s best interests because Father had "made little effort to be reunified" and had not completed services. (Tr. at 26.)